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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,729	04/09/2001	Robert F. Baugh	P9520	9763

7590

03/29/2004

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EXAMINER

DESANTO, MATTHEW F

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 03/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/832,729

Applicant(s)

BAUGH ET AL.

Examiner

Matthew F DeSanto

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-17 and 19-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-17 and 19-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The objection to the drawings are withdrawn because of the explanation by the applicant of the claimed features in the response section of the amendment.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claim 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. With regards to claim 22, the term filter is defined as element 953, but this seems to be the activating element. Therefore, the examiner is confused as to whether the glass wool is being used as a filter and activating element or just the filter? The examiner is also confused if no activating element would be needed if a filter of glass wool or a similar material would be used?

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 14-17, 19-21, and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Coelho et al. (USPN 6,274,090).

Coelho et al. discloses a first and second vessel, a means for drawing a liquid into the first and second chamber, and a restoration agent, wherein the restoration agent is calcium and an activating agent that is a chemical agent, as well as a filter, a line that connects the two vessels and a valve. (Figure 1-4 and entire reference)

7. Claims 22, 23, 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Nowakowski (USPN 6,159,232).

Coelho et al. discloses a first (9) and second (1) vessel, a lumen connecting the two vessels, and a restoration agent and an activating agent and filter as well as a valve. (Figure 1-4 and entire reference)

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 14-17, 19-24, 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hood, III (USPN 5,887,755) and further in view of Nowakowski et al. (USPN 6,482,223)

Hood discloses a system for preparing autologous plasma and fibrin gel, wherein the system consists of two vessel, each vessel with its out chamber, a means for drawing a liquid into and out of the vessels, as well as a mixing chamber [or a lumen

Art Unit: 3763

connecting the two vessels], a lumen connecting the two vessels with a valve means, and wherein the restoration agent is calcium, but fails to disclose having the filter, activation element and restoration agent all within the syringe. Hood also fails to disclose a means for expressing thrombin (Figures 1 and entire reference).

Nowakowski et al. discloses a syringe with a filter, activation element and restoration agent all within the syringe. The apparatus also comprises a valve as well. Nowakowski also discloses a way to express thrombin by similar means as taught by the applicant (Figure 2 and entire reference).

At the time of the invention it would have been obvious for one of ordinary skill in the art to combine the disclosed invention of Hood with the specific syringe of Nowakowski because Nowakowski disclose an rapid and efficacious way to closing wounds. (Column 3, line 11 - Column 4, line58) and further in view of Cederholm-Williams et al. (USPN 5,795,780)

3. Claims 14-17, 19-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hood, III and Nowakowski et al. and further in view of Cederholm-Williams et al. (USPN 5,795,780)

Hood, III and Nowakowski et al. disclose the claimed invention but fail to disclose using glass wool as a filter and an activating.

Cederholm-Williams et al. discloses using glass wool as an activating because of the negative property it possess. (Column 10, line 20-45)

At the time of the invention it would have been obvious for one of ordinary skill in the art to combine the disclosed invention of Hood, III and Nowakowski et al. with the

Art Unit: 3763

teachings of Cederholm-Williams et al. because Cederholm-Williams et al. shows that it is well known in the art to use glass wool when making thrombin (Column 10, line 20-45).

Response to Arguments

4. Applicant's arguments with respect to claims 14-17, 19-28 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F DeSanto whose telephone number is 1-703-305-3292. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 1-703-308-3552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Matthew DeSanto
Art Unit 3763
March 22, 2004


BRIAN L. CASLER

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700